



Docket No. 2119-4260 (BB-1373 PCT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Cahoon et al.

Group Art Unit: 1638

Serial No.: 10/018,902

Examiner: Bui, Phuong T

Filed: 12/17/2001

For: POLYNUCLEOTIDES ENCODING AMINOLEVULINIC ACID BIOSYNTHETIC
GENES

EXPRESS MAIL CERTIFICATE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Date of Deposit: August 4, 2004

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Non-Compliant Amendment

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,902	12/17/2001	Rebecca E. Cahoon	BB-1373	6154

7590 07/14/2004

JKJ
Thomas M Rizzo
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Legal Patents
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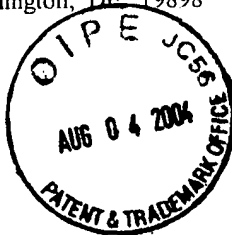
EXAMINER

BUI, PHUONG T

ART UNIT PAPER NUMBER

1638

DATE MAILED: 07/14/2004



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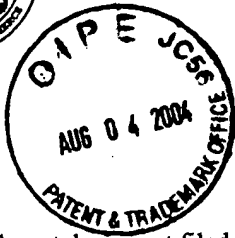
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Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 6-29-04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see *68 Fed. Reg. 38611*, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Katrina Turner
Legal Instruments Examiner (LIE)

571-272-0564
Telephone No.



8-5-04

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For: Polynucleotides encoding aminolevulinic acid biosynthetic genes

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Official Action (Notice of Non-Compliant Amendment) dated July 14, 2004, Applicant respectfully requests reconsideration in view of the following amendments and remarks.

Please cancel claims 25-37 and add new claims 38-47.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper. A complete listing of all of the claims is presented.

Remarks/Arguments can be found in the amendment document filed on June 29, 2004.